

BARRY J. PORTMAN
Federal Public Defender
LARA S. VINNARD
Assistant Federal Public Defender
160 West Santa Clara Street, Suite 575
San Jose, CA 95113
Telephone: (408) 291-7753
Counsel for Defendant PONCE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

E-FILED - 9/21/06

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO PONCE

Defendant.

No. CR 05-0288 RMW

**STIPULATION TO CONTINUE
HEARING AND EXCLUDE TIME;
ORDER**

STIPULATION

Defendant and the government, through their respective counsel, hereby stipulate that, subject to the court's approval, the hearing in the above-captioned matter, presently scheduled for Monday, August 28, 2006, at 9:00 a.m., be continued to Monday, September 18, 2006, at 9:00 a.m. The defense requests the continuance on the following grounds: Mr. Ponce is represented by Phil Vaughns, Esq., who is awaiting for a ruling on a motion for reconsideration with respect to a habeas petition in Santa Clara Superior Court. The petition seeks post-conviction relief with respect to the felony conviction that rendered Mr. Ponce deportable. Additionally, defense counsel is unavailable in late August.

The parties further agree that time should be excluded under the Speedy Trial Act until the next hearing of this matter because the defendants require time for investigation and

1 preparation, and the ends of justice outweigh the defendants' and the public's need for a speedy
2 trial.

3 Dated: 8/23/06

4 /s/
LARA S. VINNARD
Assistant Federal Public Defender
Attorney for Mario Ponce

6 Dated: 8/23/06

7 /s/
SUSAN KNIGHT
Assistant United States Attorney

9
10 **ORDER**

11 The parties have jointly requested a continuance of the hearing set for August 28, 2006,
12 on the grounds that Mr. Ponce's attorney in related state court proceedings is awaiting a ruling on
13 a motion for reconsideration with respect to the conviction that rendered Mr. Ponce deportable.
14 Additionally, defense counsel is unavailable in late August.

15 GOOD CAUSE APPEARING, IT IS HEREBY ORDERED that the hearing date
16 presently set for August 28, 2006, be continued to September 18, 2006, at 9:00 a.m.

17 Pursuant to the parties' stipulation, IT IS FURTHER ORDERED that the period of time
18 from August 28, 2006 to September 18, 2006, shall be excluded from the period of time within
19 which trial must commence under the Speedy Trial Act, 18 U.S.C. § 3161 et seq.

20 Dated: 9/21/06

21 /s/ Ronald M. Whyte
RONALD M. WHYTE
United States District Judge